



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Councilmember Johnny Khamis

SUBJECT: SB 3 (Leno) - Minimum Wage Fairness Act

DATE: March 6, 2015

APPROVED:

DATE: 3-6-2015

RECOMMENDATION

Take a SUPPORT position on SB 3 (Leno) - Minimum Wage Fairness Act, provided the following conditions are met:

- (a) The legislation includes a provision for a lower training wage/tipped employee wage; and,
- (b) The legislation exempts non-profit organizations

BACKGROUND

Implementing a statewide minimum wage increase with no exceptions, as proposed in Senate Bill (SB) 3 – the Minimum Wage Fairness Act - from Sen. Mark Leno, will cause an undue burden on small, locally-owned and operated businesses here in San Jose and throughout California, as well as non-profits, especially those that provide on-the-job training. Economic research also shows that raising the minimum wage will have a detrimental effect on the employment of young adults and others entering the workforce for the first time or re-entering the workforce after a disabling injury, incarceration, or other extended absence.

The businesses most harmed by SB 3 will be the small, locally-owned-and-operated taquerias, pho restaurants, dry cleaners, independent bookstores, neighborhood groceries, and other retail establishments. SB 3 places California on the path to homogenization, given that the businesses most likely to be able to absorb an increase in the minimum wage to \$13/hour are the large national chains that operate with economies of scale and can replace people with technology.

On February 26, 2015 at the Community and Economic Development Committee (CED) meeting a memo written by Jeff Ruster (Director of Strategic Partnerships with the Office of Economic Development with the City of San Jose) titled, "Small Business Support and Services" for agenda item D (5) shared the following information, "*San Jose's small businesses represent a critical driver of job creation and income generation in our local economy. San Jose has 55,000 small businesses with 35 or fewer employees, including those self-employed and operating from home. These companies employ over 144,000 individuals, representing 38% of all jobs in San Jose.*" Jeff further states, "*Creating and supporting such small business-based career pathways is particularly important given the limited expansion of middle income jobs anticipated in the upcoming years in the San Jose area.*"

I certainly empathize with my colleagues and others who want to help those struggling to make ends meet on the minimum wage. Minimum wage positions, however, are not intended to be career

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positions. They are a starting place – a step ladder - where one acquires the skills to move up to higher-paying positions. As world-wide motivational speaker Jim Rohn has said, "Life is not a bed but a ladder." Minimum wage jobs are not jobs intended for supporting oneself and one's family over the long run nor for maintaining a certain standard of living, they are stepping stones to better jobs. Instead of raising the minimum wage to the point where people can be complacent in a training-level job, people should be motivated to do their best to improve their earning potential as they build skills and develop specialized knowledge, starting at minimum wage and moving upward from there.

To minimize the negative effects on young people and others entering the workforce for the first time or reentering the workforce after a long absence, the legislature should allow for a lower initial training wage. Also, to avoid excessive wage inflation in the full-service restaurant sector, employees who derive a substantial portion of their compensation in tips, such as servers and bartenders, should be provided with the lower rate.

A training rate of, for example, \$10/hour, for the first six month or one year in a minimum wage job, will ensure that employers will still be willing to take a risk on employing an untested or unskilled employee. It will allow the employer to provide the worker with the training necessary to make him or her a generally more valuable member of the workforce. Unifying tipped employee compensation with the lower training rate will make for ease of administration and maintain fairness between tipped and untipped workers.

Also, the legislature should seek to minimize the complexity of any new state-mandated minimum wage on California businesses. The uniformity provided by the well-intended minimum wage hike can provide a level playing field for San Jose businesses with those across the region and state so that businesses can compete fairly. By having a state-wide minimum wage and by avoiding excessive carve-outs (businesses under a certain size, etc) the state will avoid favoring some businesses over others or making the system too complex to administer efficiently.

Having had extensive experience as a small business owner and given several conversations I have had with small business owners throughout San Jose, I know that SB 3 will have negative consequences, if it were to move forward in its current form.

From reading press reports and having conversations with business owners in San Jose, I know that many have already let workers go and changed their business hours or practices to accommodate the higher minimum wage that San Jose already implemented. The state's proposed increase would provide another jolt to small business like those that we have already experienced:

- Thomas Caughe, owner of the downtown San Jose Britannia Arms Pub was quoted saying, "I am struggling mightily. I've had to cut staff and I've personally had to work my own kitchen and bar a lot more than I need to, instead of spending the time to promote my business, pay my bills and (on) paperwork."
- Michael Saltman, research director at the Employment Policies Institute shared that San Jose's oldest restaurant, Original Joe's, had to cut back on staff and employees hours. He shared that co-owner Matt Rocca told USA Today that the wage hike San Jose imposed cost his restaurant \$90,000 a year and forced him to lay off five of his 67 employees and move closing time up to 11:00 PM.
- Jeff Burrill, who owns five popular Panera Bread locations in San Jose employs many young people and takes pride in being the first employer for many of his employees. Jeff has written to the City of San Jose telling us he will be forced to raise prices and will need to discontinue

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hiring first-time workers, hiring experienced workers instead.

- A fast-food franchise owner with whom I spoke is cutting costs and the need for labor by installing customer self-ordering kiosks—thus, replacing people with technology.

As we can see from these examples, raising the minimum wage as set forth in SB-3 will be harmful to existing small business and to those embarking on their first job.

Having a first job is a very important part of a young person's development and are critical for those reentering the workforce. We must not implement policies, as a state or as a city, that put a boulder in the path of young people and others who want an opportunity to join the workforce. SB 3, in its current form, is just that boulder. It will result in fewer employment opportunities and create greater dependency.

If SB 3 does not move forward, I encourage the legislature to take a more creative and thoughtful approach to the minimum wage policy. They should consider the policies that other countries and cities have adopted which are more conducive to job creation and avoid the unintended, but known, consequences for young people and others entering the workforce. Solutions such as apprentice wages and age-graduated minimum wages are more business friendly and avoid negative effects on youth employment. These are better alternatives to SB 3 while capturing and keeping the spirit of the proposed law.

Graduated Minimum Wage – Western Australia Model

<16 - \$7.01 (AUS)/ 5.47 (USD)

16 - \$8.76 (AUS)/ 6.83 (USD)

17 - \$10.52 (AUS)/ 8.20 (USD)

18 - \$12.27 (AUS)/ 9.57 (USD)

19 - \$14.02 (AUS)/ 10.93 (USD)

20 - \$15.77 (AUS)/12.30 (USD)

21 - \$17.52 (AUS)/13.66 (USD)

Source: Government of Western Australia – Dept. of Commerce

(<http://www.commerce.wa.gov.au/labour-relations/minimum-pay-rates-award-free-employees-employers>)

*Updated January 29th, 2015

National minimum wage is currently \$16.87 (AUS)/\$13.16 (USD)

Source: Government of Australia Fair Work Ombudsman (www.fairwork.gov.au/about-us/policies-and-guides/fact-sheets/minimum-workplace-entitlements/minimum-wages#new-workplace-relations-system)

Australian National Wage Policy

Apprentice minimum wages

An apprentice must be paid a minimum of the following percentage of the standard rate (https://extranet.deewr.gov.au/ccmsv8/fwa_website/awardmod/Current_MA/standard_rate):

Year	% of <u>standard rate</u>
(First	55
Second	65
Third	80
Fourth	95

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The minimum wages for juniors are:

Age	% of relevant adult minimum wage
Under 16 years of age	36.8
At 16 years of age	47.3
At 17 years of age	57.8
At 18 years of age	68.3
At 19 years of age	82.5
At 20 years of age	97.7

Source: Government of Australia Fair Work Ombudsman

(https://extranet.deewr.gov.au/ccmsv8/CiLiteKnowledgeDetailsFrameset.htm?KNOWLEDGE_REF=216396&TYPE=X&ID=3778109086689264088889912894&DOCUMENT_REF=400858&DOCUMENT_TITLE=Miscellaneous%20Award%202010&DOCUMENT_CODE=MA000104)

NOTE: Australia pays more for commodities such as oil than we do here in the U.S, meaning that these wages more or less level out against our lesser wages.

In closing, Mayor Liccardo eloquently shared the following, "Let's help kids build a resume instead of a rap sheet," during the San Jose Works—Youth Jobs Working Group that was held at the Roosevelt Community Center last week. I agree with Mayor Liccardo, let us ensure that our youth—especially minority youth—are empowered to work.

Thank you, in advance, for your consideration of my request.